State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Kevin R. Hayden, Secretary

March 5, 2008

TO: Senate Committee on Tax Fairness and Family Prosperity
FROM: Katie Plona, DHFS legislative liaison
RE: Assembly Bill 612

Good morning. I'm Katie Plona, legislative liaison for the Department of Health and Family Services. Senator Jauch and committee members, thank you for the opportunity to testify in favor of Assembly 612.

This is remedial legislation that DHFS requested to the Legislative Council Special Committee on Law Revision. This bill has received unanimous approval at every step of the legislative process thus far.

AB 612 corrects a statutory change made in previous legislation that appears to have been drafted in error and was not consistent with the intent of the original statutes. The purpose of this bill is to correct that error.

Under 2006 Act 444, a minor could to be placed in an inpatient facility without the approval of the facility treatment director and the director of the county department. This has resulted in fewer protections and reviews being in place.

In the original Chapter 51 (pre Act 444) various approvals were needed for a minor to be admitted to a facility, including the minor if 14 or older, the treatment director/designee of the facility and the county department director. In addition, for Northern and Southern Wisconsin Centers admissions, the Department needed to approve.

2006 Act 444 amended the statute to read in such a way that the above approvals were only needed for Northern and Southern admissions. Thus a strict interpretation of the new language would say that no approvals, except for these two facilities, were needed. This was not the intent of 2006 Act 444, as the goal was to put more, not fewer, review processes in place.

AB 612 would restore all of the reviews for all facilities, not just Northern and Southern, and also add the Department to the review of Central Center minor admissions to make the process consistent for all three Centers.

Additionally, this bill ensures the oversight of admissions processes and to correct an obvious error. This bill will not begin a process to block certain admissions to any of the centers.

Thank you again for the opportunity to testify in favor of AB 612. I am happy to answer any questions you may have.

Public Hearing -- Senate Committee on Tax Fairness and Family Prosperity
March 5, 2008 10AM

Testimony in Opposition to 2007 Assembly Bill 612

Good Morning. Thank you for the opportunity to testify. My name is Rebecca Underwood. I am speaking today in opposition to Assembly Bill 612.

I am speaking in opposition to this bill because the note at the end of this bill states that according to the Department of Health and Family Services, this bill corrects an error in 2005 Wisconsin Act 444 whereby a minor could be placed in an inpatient facility without the approval of the treatment director of the facility or his or her designee, and without the approval of the director of the county department.

I don't think this is about correcting any error.

What the Department of Health and Family Services apparently was afraid to do was to ask for outright legislative approval to ignore court orders for admission to Central Wisconsin Center for the Developmentally Disabled of minors who have profound developmental disabilities or severe developmental disabilities and complex psychiatric/behavioral issues. But this is exactly what the end result of this wording change will allow. There is not one thing to prevent this.

I went back to 2005 Wisconsin Act 444 and I read what it says. I suspect the Department of Health and Family Services has counted on you not reading the stats. And they probably have counted on you to accept what they tell you as the truth. I don't believe that the Department is being forthright and honest. What 2005 Wisconsin Act 444 reads for 51.13(4)(g) (intro.) is this, and I am reading verbatim from this Act: "If the court finds that the therapy or treatment in the inpatient facility to which the minor is admitted is not appropriate or is not the least restrictive therapy or treatment consistent with the minor's needs, the court may order placement in or transfer to another more appropriate or less restrictive inpatient facility, except that the placement in or transfer to the northern or southern centers for the developmentally disabled of a minor shall first be approved by all of the following":
The section then goes on to include the following entities that shall approve the placement of the minor to the northern or southern centers for the developmentally disabled:

- The treatment director of the facility or his or her designee
- The director of the appropriate county department
- The department

The very entities the department says were not included are most certainly mentioned here.

As this law currently reads, court ordered admission of minors to either Northern or Southern Centers required the approval of all the above mentioned entities. This portion of the law has always made sense as neither Northern Center nor Southern Center were or are equipped to adequately provide treatment for minors. The approval of the Department and the facility director would prevent a minor being placed into Northern or Southern Center inappropriately. That is what Central Center was opened for in 1959 -- to serve children. And as the years have passed, the children admitted have the most profound level of mental retardation along with complex medical issues. I should know. Our 28 year old son who has a functioning ability of around 2 months is one of the children that was admitted before extended care admissions started being denied.

I searched back as far as 1999 in the state stats and found that each successive year, this law remained virtually unchanged – that court ordered admissions to either northern or southern centers for the developmentally disabled needed the approval of the department, meaning DHFS, the treatment facility director or his or her designee and the director of the appropriate county department.

So, what is the change actually being sought here – and more importantly, why now after all these years? By changing the phrase "northern or southern centers for the developmentally disabled" and replacing it with "a center for the developmentally disabled" (lines 14-15 on page 2) the law will now include Central Wisconsin Center for the Developmentally Disabled. What this means is that if a parent or guardian, along with their county, seeks and obtains a court order for their child/ward for admission to Central Wisconsin Center, the Department *of Health and Family Services and the director of Central Wisconsin Center can refuse to accept that minor* -- **they can legally ignore a court order**. Please keep in mind these are minors with severe developmental disabilities or developmental disabilities and complex psychiatric/behavioral issues. Central Center even established a program, Short Term Assessment Program, in 2003 to support minors with severe developmental disabilities and complex psychiatric/behavioral issues.

It is the worst kept secret in the world that the Department of Health and Family Services wants to end long term care at both Southern Center and Central Center, just like they did at Northern Center several years ago. Central Center has not accepted any long term or extended care admissions since I believe

around 1998. In addition, they are doing everything possible to pressure counties to remove their residents from the Centers. As a parent/guardian, I am well aware of this pressure.

Voluntary admissions are being denied. As I have been told, parents are being offered alternatives and all parents are accepting those alternatives. What is important here is that parents are still seeking extended care admissions, but are being denied. The Department has frequently and publicly stated that they will not accept long term care admissions to a State Center.

All that is left for a parent, following a denial of an extended care admission for their child, is to seek a court order for admission. I can not adequately convey to you how hard it is when a family so desperately wants to give their child the best shot they can find for a quality of life for their child with profound developmental disabilities, to have to seek a court order for placement at Central Center. A court order was the only avenue left for families desperate to obtain the highest level of care and treatment available in Wisconsin for their child with profound developmental disabilities. And now these parents could be faced with the possibility that even a court order can be ignored by the Department and their child refused extended care admission. This is what this "minor substantive change" actually will mean for these families.

I do not believe this about correcting an error. This subtle wording change is all about the Department of Health and Family Services being allowed to legally ignore a court order and refuse to admit to Central Wisconsin Center a minor with profound developmental disabilities or a minor with severe developmental disabilities and complex psychiatric/behavioral issues. Another step in the process of ending long term care at the State Centers for the Developmentally Disabled.

I respectfully ask that before you take executive action on this bill, that you will please take the time to review the portion of the stats that I have included with my testimony to verify for yourself whether or not there was an error in 2005 Wisconsin Act 444 and whether or not this Act provided for a minor to be placed in an inpatient facility without the approval of the facility treatment director or his or her designee or without the approval of the director of the county department. Was there really an error?

Thank you.